

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

ORDER

Plaintiff,

04-cr-140-bbc
13-cv-509-bbc

v.

KEITH A. POPHAL,

Defendant.

On July 18, 2013, defendant Keith A. Pophal filed a motion for post conviction relief under 28 U.S.C. § 2255, contending that his 2005 conviction for being a felon in possession of firearms can no longer stand in light of two recent decisions by the United States Supreme Court in Alleyne v. United States, 133 S. Ct. 2151 (2013), and Descamps v. United States, 133 S. Ct. 2276 (2013). In an order entered on July 22, 2013, I denied defendant's motion for lack of jurisdiction.

Now defendant has filed a motion for reconsideration of the July 22, 2013 order. Defendant's motion is denied. As I explained to defendant in the July 22, 2013 order, Section 2255 prohibits a defendant from filing a second or successive motion under § 2255 without certification by a panel of the court of appeals that the new motion contains newly discovered evidence or "a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court." Defendant must seek permission from the court

of appeals to file a successive motion.

ORDER

Defendant's motion for reconsideration is DENIED.

Entered this 12th day of August, 2013.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge